

Message Text

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USDOC FOR BEWT/TDAD (STEIN)

E.O. 11652: N/A
TAGS: BEXP, UR
SUBJECT: ARBITRATION LANGUAGE IN SOVIET TRADE CONTRACTS

REF: USDOC 11775

1. USCO HAS CONSISTENTLY ADVISED U.S. COMPANIES TO INSIST ON SWEDISH LAW PROVISION IN ARBITRATION CLAUSE. WE KNOW OF NO RPT NO U.S. COMPANY WHICH HAS NEGLECTED TO INCLUDE SUCH WORDING IN ITS CONTRACTS WITH SOVIETS. HOWEVER, RECENT EVENTS INDICATE THAT SOVIETS MAY INCREASE PRESSURE FOR INCLUSION OF REFERENCE TO SOVIET LAW AS GUIDING FACTOR IN ARBITRATION, AS WELL AS OTHER CLAUSES. WE ARE POUCHING USDOC LATEST FORM CONTRACT FROM AVTOEXPORT WHICH HAS FOLLOWING LANGUAGE IN DISPUTES CLAUSE: QUOTE, 13. ALL DISPUTES AND DIFFERENCES WHICH MAY ARISE UNDER OR IN CONNECTION WITH THIS CONTRACT TO BE SETTLED AT THE FOREIGN TRADE ARBITRATION COMMISSION AT THE USSR CHAMBER OF COMMERCE AND INDUSTRY, MOSCOW, IN ACCORDANCE WITH THE RULES OF PROCEDURE OF THE SAID COMMISSION, NO RECOURSE TO LAW COURTS BEING PERMITTED. THE AWARD OF SUCH ARBITRATION TO BE CONSIDERED FINAL AND LIMITED OFFICIAL USE

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BINDING UPON BOTH PARTIES CONCERNED. UNQUOTE.

2. U.S. COMPANY WHICH PROVIDED USCO WITH ABOVE CONTRACT FORM ASKED NOT TO BE IDENTIFIED, AND ASSURED US IT WOULD SIGN NO CONTRACT WHICH DID NOT REFER TO LAWS OF SWEDEN GOVERNING ARBITRATION. WILL CONTINUE TO SEEK INFORMATION ON THIS SUBJECT AND

ADVISE USDOC ACCORDINGLY.

3. FYI: U.S. COMPANY REP INFORMS US THAT SWEDISH
ARBITRATION CODE APPLIES SUBSTANTIVE LAW OF BUYER'S
COUNTRY AND PROCEDURAL LAW OF SWEDEN. END FYI.
MATLOCK

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